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January 14, 2014

The Honorable Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

S.C. Supreme Court

Re: *Ann Coleman, etc. v. Mariner Health Care, Inc., et al.*
Appellate Case No. 2011-194946

Dear Mr. Shearouse:

Pursuant to Rule 208(b)(7), SCACR, Respondent advises you of the following pertinent and significant authority that has come to the attention of Respondent's counsel after the briefs were filed in this case:

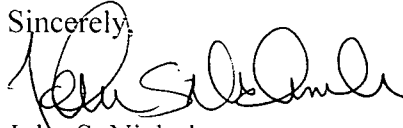
Johnson v. Kindred Healthcare, Inc., Op. No. SJC-11335 (Mass. Sup. Jud. Ct. filed Jan. 13, 2014) (2014 WL 92187 (Mass.)) (under Massachusetts Health Care Proxy Statute, health care agent's decision to enter into an arbitration agreement is not a "health care decision" as that term is defined and used in the health care proxy statute, citing to cases from other jurisdictions including *Ping v. Beverly Enters., Inc.*, 376 S.W.3d 581 (Ky. 2012), *cert. denied*, ___ U.S. ___, 133 S. Ct. 1996 (2013)).

Licata v. GGNS Malden Dexter LLC, Op. No. SJC-11336 (Mass. Sup. Jud. Ct. filed Jan. 13, 2014) (2014 WL 92185 (Mass.)) (a responsible party authorized to give informed consent on behalf of an incompetent person, even in the absence of a health care proxy, may not also bind the patient to an arbitration agreement (slip at 5); also, "the law does not regard estoppels with favor, nor extend them beyond ... the transactions in which they originate" (slip at 8, ellipse in original)).

These decisions pertain to Issue II (A) on pages 21 through 26 and Issue II (C) on pages 30 through 32 of Appellant's Brief and Issue I (A) on pages 10 through 16 and Issue I (C) on pages 20 through 24 of Respondent's Brief. The reason for the supplemental citation is that the citations were filed January 13, 2014, and these holdings may inform the Court regarding the issues of whether the decision to arbitrate is a "health care decision" under the SCAHCCA, and whether the doctrine of equitable estoppel applies in this case.

Thank you for your attention to this matter. Please pass this letter to the Court for its consideration.

Sincerely,



John S. Nichols
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DELGADO, LLC

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